

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KIPP MCCLANAHAN,

Plaintiff,

v.

No. 1:24-cv-00109-LF-GJF

PERIKIN ENTERPRISES, LLC,

Defendants.

PERIKIN ENTERPRISES, LLC,

Third-Party Plaintiff,

v.

DUB-L-EE, LLC,

Third-Party Defendant.

PERIKIN ENTERPRISES, LLC'S UNOPPOSED
MOTION TO FILE EXHIBITS UNDER SEAL

Defendant/Third-Party Plaintiff Perikin Enterprises, LLC ("Perikin"), by and through its attorneys of record, Riley | Keller | Alderete | Gonzales (Mark J. Riley and Drew A. Larkin) hereby moves the Court for an Order permitting it to file certain exhibits under seal pursuant to Rule 5.2(d) F.R.C.P. As grounds, Perikin states as follows:

1. This is a personal injury action concerning a worksite accident that occurred on or about November 3, 2022, while Plaintiff Kipp McClanahan was performing construction duties in the course and scope of his employment with Third-Party Defendant DUB-L-EE, at Kirtland Air Force Base, in Albuquerque, New Mexico. *See* Compl., (ECF No. 1-1).

2. Plaintiff originally instituted this matter in the State of New Mexico's Second Judicial District Court, and it was subsequently removed by Perikin on the basis of federal question

jurisdiction. *See* Ntc. Removal, (ECF No. 1).

3. The subject construction work being performed when Plaintiff's accident occurred was in furtherance of federal contract no. 89233121CNA000215 entered into by the National Nuclear Security Administration and Perikin. Perikin then entered into Sub-Contract Agreement No. PK1034-033.1100.04. *See* Ntc. Removal and Third-Party Compl., (ECF Nos. 1 and 2).

4. Federal contract no. 89233121CNA000215 contains a provision of adherence to national security in general, and onsite security regulations and directives implemented by the U.S. Department of Energy/National Security Administration.

5. Sub-Contract Agreement No. PK1034-033.1100.04 contains a confidentiality provision to protect the disclosure of trade secrets and other confidential business information.

6. These two contracts have been attached as exhibits to Perikin's Notice of Removal and Third-Party Complaint and are essential for establishing removal on the basis of federal question jurisdiction and its causes of action against Plaintiff's employer, DUB-L-EE, LLC. *See* Ntc. Removal and Third-Party Compl., (ECF Nos. 1 and 2).

7. Good cause exists for these contracts to be filed with the Court under seal and unredacted to ensure all parties are continuing to adhere to the provisions concerning national security, DOE security regulations and directives, and trade secret confidentiality.

8. Pursuant to D.N.M.LR-Civ. 7.2, Plaintiff's position was sought on the instant Motion and he does not oppose. Counsels for Plaintiff and Perikin have conferred in good faith on this issue and agree that by not opposing this Motion, Plaintiff has not and does not waive any right to contest this Court's jurisdiction over this matter. Third-Party Defendant DUB-L-EE has not entered into this action as of the date of the filing of this Motion.

WHEREFORE, Defendant/Third-Party Plaintiff Perikin Enterprises, LLC respectfully

requests that the Court grant this Motion to File Exhibits Under Seal and enter an Order consistent with the relief sought in this Motion.

Respectfully submitted,

RILEY | KELLER | ALDERETE | GONZALES

By: /s/ Drew A. Larkin

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Plaintiff Perikin Enterprises, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 13, 2024, a copy of the foregoing was electronically filed through the CM/ECF system, which caused participating CM/ECF counsel to be served with same by electronic means.

/s/ Drew A. Larkin

Drew A. Larkin